

March 28, 2024
Sl. No.57
Court No.19
s.biswas

CAN 1 of 2024
In
CO 1966 of 2023

Mrs. Pamela Ghosh Saha
vs.
Mr. Arijit Saha

Mr. Partha Pratim Roy
Mr. Suwendu Bandopadhyay
Mr. Arindam Mitra

... for the petitioner

Mr. Satyam Mukherjee
Ms. Sayani Ahmed

... for the opposite parties

CAN 1 of 2024 is an application for modification of the order dated October 10, 2023, passed by this court in CO 1966 of 2023.

By the said order, this court had made an arrangement for visitation of the father in following manner:

- “(a) The father shall pick up the child from the residence of the mother at Chandernagore every Saturday and Sunday at 4:00 P.M.
- (b) The father shall have exclusive right to entertain the child, interact with the child and take the child for outings within Chandernagore.
- (c) The child shall be reached to the mother’s house within 7:00 P.M.
- (d) The paternal grand parents are also entitled to visit the child on the aforesaid days.

The learned Advocate-on-record for the parties will coordinate such meetings and the parties are directed to co-operate with each other so that the child bonds with both parents and there are no quarrels and display of personal problems in front of the child.

This arrangement shall continue until further order of the Court below or of any competent court having jurisdiction.”

Mr. Mukherjee, learned advocate appearing for the applicant/father submits that an arrangement

may be made by the court by modifying the order, and allowing the child to go to the father's house and spend her birthday on 2nd April, 2024. The specific reason for such prayer is that the mother works from 8 a.m. to 8 p.m. and the school gets over at 12:30 p.m. The child would be alone between 12:30 to 8 p.m. and only with her maternal grand parents. It would be beneficial for the child and more enjoyable for the child to spend her birthday with the father and the paternal grand parents.

Mr. Roy, learned advocate for the mother, submits that this court does not retain jurisdiction to pass such order. Secondly, this court had granted leave to the parties to approach the learned trial judge for any further alteration or modification in the arrangement made. In the absence of any changed circumstances or without any error apparent on the face of the record, an application of such nature should not be maintainable.

This court agrees with Mr. Roy. The court became functus officio as soon as the order was passed. This court had granted opportunity to the parties to approach the learned trial judge with any prayer for modification. This court also, does not want to upset the child's routine.

The father has already approached the learned trial court. It is submitted that the next date has

been fixed on the birthday of the child itself. No useful purpose will be served, even if such application is entertained by the court.

This modification application is disposed of without any alteration in the arrangement already made, but an opportunity is granted to the father, to meet the child at the mother's residence at 4 p.m. on April 2, 2024 and spend some quality time in the presence of the maternal grand parents. The father will be at liberty to take gifts for the child. All other prayers made in the application may be entertained by the learned court. The orders are refused on the ground of non-maintainability of the modification application and not on merits.

The application is disposed of accordingly.

All parties to act on the server copy of this order.

(Shampa Sarkar, J.)